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MAR 16 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
Of Counsel
William H. BuRoss, III
Matthew L. Leibowitz

March 16, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

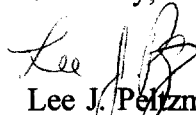
Re: Amendment of Section 73.202(b)
FM Table of Allotments
Robstown, Gregory, and Driscoll, Texas

Dear Mr. Caton:

Transmitted herewith, on behalf of Cotton Broadcasting, licensee of Station KMIQ(FM), Robstown, Texas, is an original and four (4) copies of its Petition for Rule Making in the above-referenced matter.

Should questions arise concerning this matter, please communicate with this office.

Sincerely,



Lee J. Peltzman
Counsel for

COTTON BROADCASTING

Enclosure

MAR 16 1994

Before The
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of:)	
)	
Amendment of Section 73.202(b))	MM DOCKET NO.
FM Table of Allotments)	RM-
(Robstown, Gregory, and Driscoll, Texas))	

To: Chief, Allocations Branch
 Policy and Rules Division
 Mass Media Bureau

PETITION FOR RULE MAKING

Cotton Broadcasting ("Cotton"), licensee of Station KMIQ(FM), Robstown, Texas, by its attorney, hereby respectfully requests that Section 73.202(b) of the Commission's rules be amended as follows:

	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
Gregory, Texas	283A	---
Robstown, Texas	260C1, 286A	260C1
Driscoll, Texas	---	283C3

The allocation of Channel 283C3 at Driscoll, Texas, can be made in accordance with the Commission's minimum distance separation and principal community coverage requirements with a site restriction of 10.2 km if the Commission deletes Channel 283A at Gregory, Texas, and Channel 286A at Robstown, Texas. Cotton additionally requests the concurrent modification of its license for Station KMIQ(FM) to specify operation on Channel 283C3 at Driscoll.

Clearly, the public interest would be advanced by the allotment of a first local aural transmission service to the community of Driscoll, Texas. Driscoll is an incorporated

municipality with its own Mayor and City Council as well as a police department and its own independent school district. Driscoll had a 1990 population of 688 persons. Alternatively, the deletion of Channel 286A will leave Robstown with two other local services (one FM and one AM). Thus, the requested action will result in a preferential arrangement of allotments. The proposal will meet the requirements of Section 1.420(i) of the rules in that the requested allotment to Driscoll is mutually-exclusive with the present allotment of Channel 286A at Robstown.

Additionally, the allotment of Channel 283A to Gregory, Texas, made in Report and Order (MM Docket No. 87-396), effective September 26, 1988, has never been implemented. Five years have passed since that effective date, yet no Gregory station has ever been constructed. In fact, a construction permit for Gregory was issued, but then canceled by the Commission on December 16, 1992.^{1/} With the deletion of Channel 283A at Gregory from the Commission's FM Table of Allotments, that channel would be considered vacant, meaning that Channel 283C3 may be assigned to the community of Driscoll and the license for Station KMIQ(FM) modified accordingly. The Commission has previously deleted FM channels to accommodate upgrades. See e.g., Cleveland and Ebenezer, Mississippi, 8 FCC Rcd. 2739 (1993); Northport, Alabama, and Macon, Mississippi, 8 FCC Rcd. 2161 (1993). See also Gladwin, Michigan, 7 FCC Rcd. ____, DA 92-804, released June 30, 1992 (FM channel deleted to allow another station to increase power where no application had been filed for the FM channel).

^{1/} Given the proximity of Gregory to Corpus Christi, it is quite possible that a Class A allotment at Gregory would never be economically viable. The Commission had recognized the increased competition and economic hardships among stations in radio markets. See Cleveland and Ebenezer, Mississippi, 8 FCC Rcd. 8654, 8655 (1993).

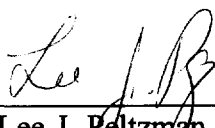
Further, additional public interest benefits will accrue from the allotment of Channel 283C3 to Driscoll and the concurrent modification of KMIQ's license -- the facility will be able to provide service within its 1 mV/m contour to 315,184 persons, an increase of 443% in population over the current 71,135 persons located within its 1 mV/m contour. It should be noted that Hispanics would represent 54% (169,967 persons) of the total service area population. Moreover, Cotton Broadcasting is 100% owned and operated by Hispanics and its programming is in the Spanish language.

Accordingly, for the reasons stated above, Cotton requests that the Commission adopt this proposal to delete Channel 283A at Gregory, Texas, delete Channel 286A at Robstown, Texas, and allot Channel 283C3 to Driscoll, Texas, as that community's first local aural transmission service and concurrently modify the license for Station KMIQ(FM) to specify operation on Channel 283C3 at Driscoll, Texas. In the event that Channel 283C3 is allotted to Driscoll, Cotton will promptly file an application for a construction permit and, once that application is granted, will immediately construct its station and commence operations.

Respectfully submitted,

COTTON BROADCASTING

By:



Lee J. Peltzman
Its Attorney

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March 16, 1994

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